

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA	:	
	:	CRIMINAL ACTION
v.	:	
	:	NO. 1:11-CR-028-TWT
RHETT MAUGHON,	:	SUPERSEDING
RAFAEL VILLERREAL, SR., and	:	
MARCUS MAUGHON	:	

MOTION FOR RULE 44(c) HEARING

Comes now the United States of America, by and through counsel, Sally Quillian Yates, United States Attorney, and William L. McKinnon, Jr., and Steven D. Grimberg, Assistant United States Attorneys, and moves for a hearing pursuant to Rule 44(c) of the Federal Rules of Criminal Procedure regarding a potential conflict of interest regarding counsel for defendants Rhett Maughon and Marcus Maughon and two Government witnesses.

(1)

Defendants Rhett Maughon and Marcus Maughon are jointly represented by Wilmer (Buddy) Parker. Mr. Parker was formerly a partner in a law firm with Craig Gillen.

(2)

Mr. Gillen represents two Government witnesses in the instant case, James Welch and Ken Austin. Mr. Gillen began representing Mr. Welch and Mr. Austin in mid-2006. He has continuously represented since that time.

(3)

Counsel for the Government been advised that in December 2007, Mr. Parker left the law firm in which he and Mr. Gillen were

partners. Thus, Mr. Parker and Mr. Gillen were law partners for the first one and a half years that Mr. Gillen represented Mr. Welch and Mr. Austin. Therefore, Mr. Parker may have a conflict of interest that would impact his ability to cross-examine Mr. Welch and Mr. Austin. See United States v. Campbell, 491 F.3d 1306, 1310 (11th Cir. 2007).

(4)

The proper means for the Court to address the potential conflict arising from the facts presented herein is for the Court to hold a hearing pursuant to Rule 44(c) of the Federal Rules of Criminal Procedure.

WHEREFORE, the Government respectfully requests that the Court conduct a hearing pursuant to Rule 44(c) of the Federal Rules of Criminal Procedure and inquire into the potential conflict of interest that may impact Mr. Parker's ability to cross-examine Mr. Welch and Mr. Austin.

Respectfully submitted,

SALLY QUILLIAN YATES
UNITED STATES ATTORNEY

/S/ William L. McKinnon, Jr.
WILLIAM L. MCKINNON, JR.
ASSISTANT U.S. ATTORNEY

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CERTIFICATE OF SERVICE

This is to certify that I have this day served upon the persons listed below a copy of the foregoing document by electronically filing with the Clerk of Court using the CM/ECF system which will automatically send notification via email said copy to:

Paul Kish
Wilmer (Buddy) Parker

This 16th day of September 2011.

/s/ William L. McKinnon, Jr.
WILLIAM L. MCKINNON, JR.
ASSISTANT UNITED STATES ATTORNEY